

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

LISA A. LEHMAN,

Plaintiff,

v. **Civil Action 2:11-cv-488**
Judge Peter C. Economus
Magistrate Judge Elizabeth P. Deavers

MICHAEL J. ASTRUE,
COMMISSIONER OF SOCIAL SECURITY,

Defendant.

ORDER

Plaintiff, Lisa A. Lehman, brings this action under 42 U.S.C. §§ 405(g) and 1383(c)(3) for review of a final decision of the Commissioner of Social Security (“Commissioner”) denying her application for social security disability insurance benefits and supplemental security income. This matter is before the August 17, 2012 Report and Recommendation of the United States Magistrate Judge (ECF No. 14) and Plaintiff’s Objections to the Report and Recommendation (ECF No. 15). For the reasons that follow, the Court **OVERRULES** Plaintiff’s Statement of Errors, **ADOPTS** the Report and Recommendation, and **AFFIRMS** the Commissioner’s finding of nondisability.

I.

If a party objects within the allotted time to a report and recommendation, the Court “shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1); *see also* Fed.

R. Civ. P. 72(b). Upon review, the Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1).

The Court’s review “is limited to determining whether the Commissioner’s decision ‘is supported by substantial evidence and was made pursuant to proper legal standards.’” *Ealy v. Comm’r of Soc. Sec.*, 594 F.3d 504, 512 (6th Cir. 2010) (quoting *Rogers v. Comm’r of Soc. Sec.*, 486 F.3d 234, 241 (6th Cir. 2007)); *see also* 42 U.S.C. § 405(g) (“The findings of the Commissioner of Social Security as to any fact, if supported by substantial evidence, shall be conclusive . . .”). Put another way, a decision supported by substantial evidence is not subject to reversal, even if the reviewing court might arrive at a different conclusion. *Mullen v. Bowen*, 800 F.2d 535, 545 (6th Cir. 1986). “Substantial evidence exists when ‘a reasonable mind could accept the evidence as adequate to support a conclusion [and] . . . presupposes that there is a zone of choice within which the decision-makers can go either way, without interference by the courts.’” *Blakley v. Comm’r of Soc. Sec.*, 581 F.3d 399, 406 (6th Cir. 2009) (internal; citation omitted). Even if supported by substantial evidence, however, “‘a decision of the Commissioner will not be upheld where the [Commissioner] fails to follow its own regulations and where that error prejudices a claimant on the merits or deprives the claimant of a substantial right.’” *Rabbers v. Comm’r of Soc. Sec.*, 582 F.3d 647, 651 (6th Cir. 2009) (quoting *Bowen v. Comm’r of Soc. Sec.*, 478 F.3d 742, 746 (6th Cir. 2007)).

II.

The Court has conducted a *de novo* review and agrees with the reasoning and analysis of the Magistrate Judge. In her Objections, Plaintiff merely submits the same arguments as she did in her Statement of Errors. Specifically, she again advances the following three arguments in

support of reversal: (1) the administrative law judge (“ALJ”) erred in his consideration and treatment of Plaintiff’s treating and examining sources; (2) the ALJ failed to provide a proper hypothetical to the vocational expert; and (3) the ALJ incorrectly assessed her credibility. The Magistrate Judge considered and fully analyzed each of these arguments in her Report and Recommendation.

With regard to each assertion of error, the Court finds Plaintiff’s objections unpersuasive, as they track the contentions within her Statement of Error and do not attempt to engage the Magistrate Judge’s analysis. *See Robert v. Tesson*, 507 F.3d 981, 994 (6th Cir. 2007) (“[A] general objection to a magistrate judge’s report, which fails to specify the issues of contention, does not suffice to preserve an issue for appeal”) (citation omitted). Plaintiff offers no authority in her Objections that undermines the Magistrate Judge’s determination with regard to any issue. The Court agrees with the Magistrate Judge’s recommendations concerning Plaintiff’s assertions of error, and therefore, finds Plaintiff’s Objections to be without merit.

III.

For the reasons set forth above, the Court **OVERRULES** Plaintiff’s Objections (ECF No. 15), **ADOPTS** the Report and Recommendation (ECF No. 14), and **AFFIRMS** the Commissioner’s decision.

IT IS SO ORDERED.

/s/ Peter C. Economus
PETER C. ECONOMUS
UNITED STATES DISTRICT JUDGE